



Battle Creek Zoning Board of Appeals

Staff Report

Meeting: August 12, 2014
Appeal #Z-02-14

To: Zoning Board of Appeals
From: Glenn Perian, Senior Planner
Date: July 29, 2014
Subject: Petition for a dimensional variance (Z-02-14) to permit the construction of an accessory building 1.5' from a front yard lot line at 5 Terrace Avenue.

Summary

This report addresses a petition from Gregory Lightfoot seeking approval of a Dimensional Variance (Z-02-14), to waive the 25' setback requirement for structures on corner lots to build an accessory building 1.5' from the existing garage and 1.5' from the property line fronting Roe St. at 5 Terrace Avenue. The applicant would like to build a 12' x 15' shed behind an existing garage fronting Roe Street, 1.5' from the property line. The existing garage is 12' x 18' and the proposed building/shed would sit 1.5' behind it and 1.5' from the property line along Roe Street. The property slopes approximately 6' from the property at 5 Terrace down to Roe St. as seen in the following picture and map.

Chapter 1278.03(b) of the Planning and Zoning Code states:

"On corner lots, a front yard shall be required along each street".

And Chapter 1286.05(d) states;

"Accessory buildings may not be closer than 10' to the main building or another accessory building unless otherwise permitted under building code provisions"

The project was started before any permits were applied for and a stop work order has been posted on the property by the Building Inspector. There is an aerial of the property with the proposed location of the shed attached to the packet of materials you received and the Appellant is expected to be at the hearing to discuss any questions you may have related to this request.



start of proposed building (w/o permits)



subject property

Legal Description

HALL BROS ADD NELY 78 FT OF LOT 12

Public Hearing and Notice Requirements

An advertisement of this public hearing was published in the Battle Creek SHOPPER NEWS on Thursday, July 18, 2014 – not less than the 15 days before the hearing as required by State Law and ordinance.

Notices of the public hearing were also sent by regular mail on July 21, 2014 to 39 property owners and occupants located within 300 feet of the subject parcel. As of the writing of this report, planning staff received one anonymous phone call from a neighbor in support of this request.

Applicable Zoning Ordinance Provisions

Chapter 1234.04 states:

b) The Board shall have the authority to grant the following variations:

(1) Nonuse. If there are practical difficulties for nonuse variances relating to the construction, structural changes, or alterations of buildings or structures related to dimensional requirements of the zoning ordinance or to any other nonuse-related standard in the ordinance in the way of carrying out the strict letter of the zoning ordinance, then the Board may grant a variance so that the spirit of the zoning ordinance is observed, public safety secured, and substantial justice is done. The Board may impose conditions as otherwise allowed under the Michigan Zoning Enabling Act, MCL 125-3101 et seq.; and

(c) Variance Standards. In consideration of all appeals and proposed exceptions to or variations from this Zoning Code, the Board shall, before making any such exceptions or variations, in a specific case, first determine that the applicant has met all of the following conditions as set out for the specific type of variance requested:

(1) Nonuse (dimensional) Variances:

A. When it can be shown that a practical difficulty would, in fact, exist if the strict non-use requirements of this zoning ordinance (e.g., lot area, width, setbacks, building height, etc.) were applied to a specific building project, the Board may grant a variance from these requirements. The practical difficulty from a failure to grant the variance must include substantially more than a mere inconvenience or a mere inability to attain a higher financial return.

B. The practical difficulty must be exceptional and peculiar to the subject parcel of land which do not generally exist throughout the City and may not be self-imposed or the result of an earlier action by the applicant. If the parcel of land could be reasonably built upon in conformance with the requirements of this zoning ordinance by simply relocating or redesigning the structure(s), then a variance shall not be granted.

C. A variance shall not be granted when it will alter or conflict with the intent of this Ordinance considering the public benefits intended to be secured by this Zoning Code and the rights of others whose property would be affected by the allowance of the variance.

D. Any variance granted shall be the minimum necessary to provide relief for the practical difficulty of the applicant.

Analysis and Recommendation

Staff has reviewed the application and finds that it meets the requirements for submittal and is considered complete. The Appellant is requesting a variance from the 25' setback requirement for structures located on a corner lot. The Appellant has stated that the building will be used for the storage of personal property and the shape of the lot and the lot having street frontages on three sides makes it impossible to comply with the code. The Appellant has supplied additional reasons supporting the request for appeal and they are included with the application and part of this report.

Findings and Recommendation

The Zoning Board of Appeals can approve, approve with conditions, or deny this request. The Zoning Board of Appeals can also table or postpone the request pending additional information. In consideration of all variations from the Zoning Code, the Board shall, before making any such exceptions or variations, in a specific case, first determine that the conditions listed below are satisfied. Planning staff has reviewed these conditions and we do not believe that each condition can be justified in an affirmative manner. While we agree to the fact that the lot has street frontage on three sides, the lot currently supports a 12' x 18' garage and we think that the proposed addition is just too close to the property line fronting Roe Street. We have provided a rationale for each condition set forth below for Dimensional Variances and the Planning staff recommends that the Zoning Board of Appeals deny the Dimensional Variance (Z-02-14) based on the following findings contained in this staff report.

A) Staff finds that practical difficulty does not exist if the strict requirement of the Ordinance is applied to this specific building project and that the Board is authorized to deny the variance in

this case. The practical difficulty from failure to grant the variance will include substantially more than a mere inconvenience in this case in that there is already a garage located on the property that could be used for storage. From the information submitted by the Appellant, there is no compelling reason as to why the accessory building should be allowed to be constructed 1.5' from the property line fronting Roe Street.

- B) Staff believes that the practical difficulty is not exceptional and peculiar to the subject parcel and the conditions associated with the property generally exist throughout the City on other corner lots. We do not believe the appellant has provided any compelling reasons as to why the additional storage space is required.
- C) Staff believes that if the variance is granted that the intent of the Ordinance will be altered or that the rights of others will be compromised in that the property already supports a garage that is closer than the required 25' from Roe Street. While we agree that it would be difficult for the property owner to construct any addition on the property and comply with setback requirements, we do not think that building 1.5' from a road frontage is reasonable in an R-2 zoning district.
- D) Staff believes that the variance requested exceeds the minimum necessary to provide relief from any stated practical difficulty in that the current garage does not comply with setback requirements for the R-2 zone (25' required) and to build even closer to Roe Street is not reasonable for the R-2 zoning district.

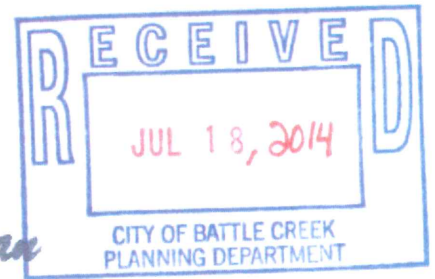


Attachments:

The following information is attached and made part of this Staff Report.

1. ZBA Petition Form (Petition #Z-02-14)
2. Aerial of property and location of proposed building
3. Assessing information sheet for the property

#2-02-14



**APPLICATION FOR A VARIANCE
ZONING BOARD OF APPEALS**

City of Battle Creek, Michigan

An Appeal to the Zoning Board of Appeals to authorize a variance from the requirements of the Planning and Zoning Code (Part Twelve) of the City of Battle Creek.

Name of Appellant: GREGORY LIGHTFOOT

Address: 5 TERRACE AVE Phone: 269-420-6399

Name of Owner (if different from Appellant): _____

Address: _____ Phone: _____

TO THE ZONING BOARD OF APPEALS: Request is hereby made for permission to:
(Choose One) Extend Erect Appeal Use Convert Enclose

Description: WAVE THE SIDE YARD SET BACK TO
ALLOW THE UTILITY SHED TO BE 1.5 FEET FROM SIDE
PROPERTY LINE IN A FRONT YARD ON A CORNER LOT

Contrary to the requirements of Section(s) 1286.05 (a)(c-d) of the Planning and Zoning Code, upon the premises known as _____ Battle Creek, MI, in accordance with the plans and/or plat record attached.

The proposed building or use requires Board action in the following area(s):

BECAUSE OF UNIQUE LAYOUT OF LOT
HAVING 3 FRONT YARDS

Property/Tax I.D. # No. 3720-00-014-0 Size of the Lot: Width _____ Depth _____

Size of Proposed Building: Width 15' Depth 12' Height 12' ^{TOTAL HEIGHT}

The following reasons are presented in support of this appeal (complete each section):

- (a.) This property cannot be used in conformance with the ordinance without the requested variance because:

OF LOT DIMENSIONS

- (b.) This problem is due to a unique situation not shared in common with nearby property owners because:

HAVING 3 FRONT YARDS

- (c.) Granting the variance would not alter the essential character of the area because:

WOULD NOT AFFECT ADJOINING PROPERTIES

- (d.) The problem is not self-created because:

SHAPE OF LOT

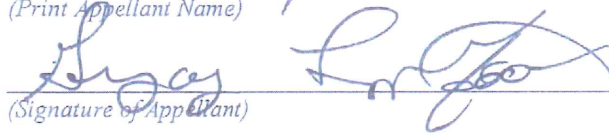
- (e.) USE VARIANCES ONLY It is not possible to use this particular property for any other use currently allowed in the zoning district because:

N/A

I hereby affirm that, to the best of my knowledge, all the above and accompanying statements and drawings are correct and true. In addition, I give permission to the City of Battle Creek's Planning Department staff to access my property, if necessary, to take photographs of the subject of this appeal.

GREGORY LIGHTFOOT

(Print Appellant Name)

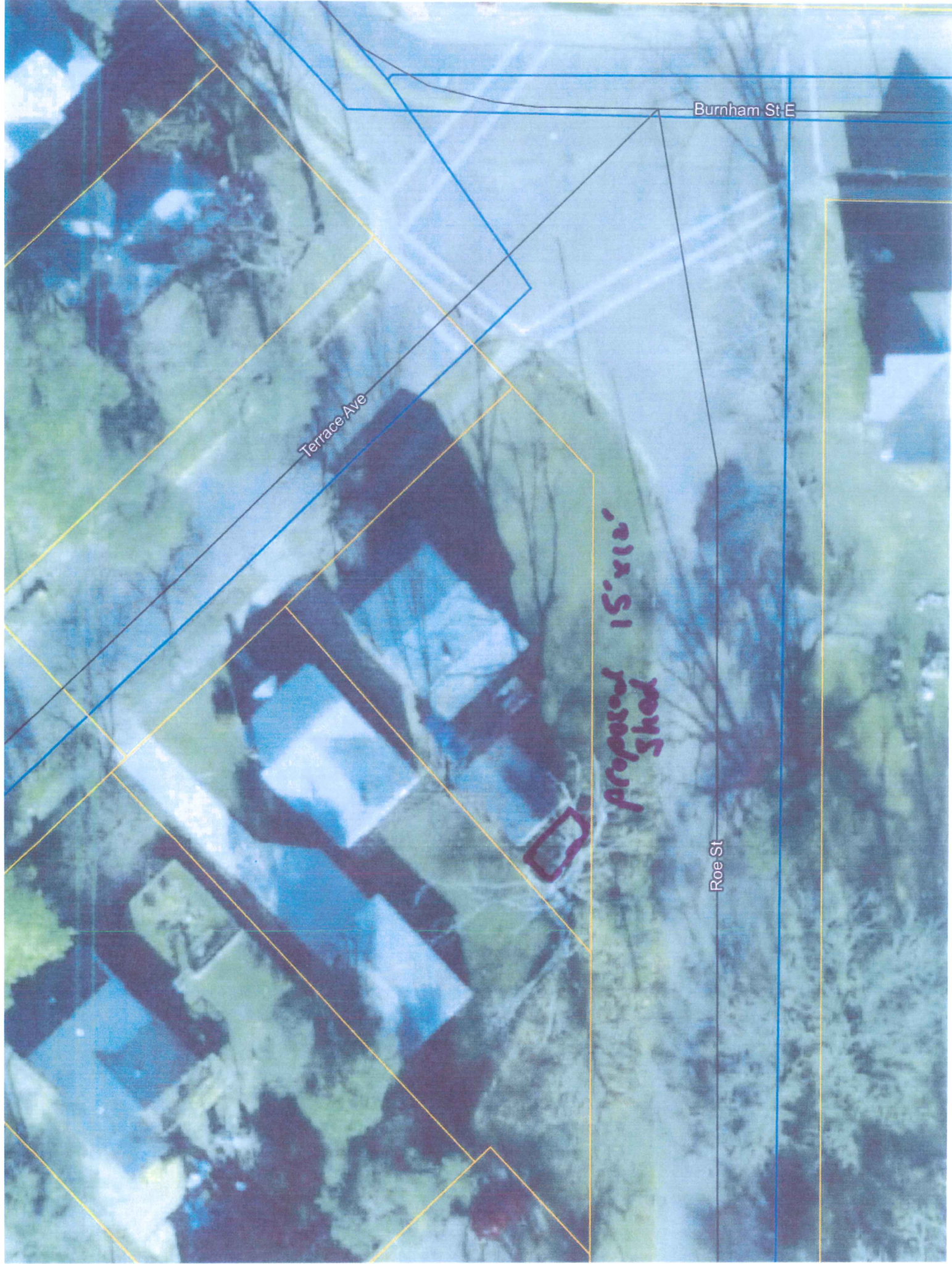


(Signature of Appellant)

5 TERRACE AVE.

(Address of Appellant)

If you require additional information or assistance in filling out this application, please contact the Planning Department at (269) 966-3320.



Burnham St E

Terrace Ave

Proposed 15' x 12' Shed

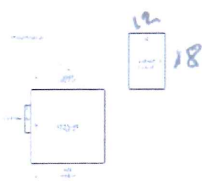
Roe St

5 Terrace Avenue
Parcel #3720-00-014-0



5 TERRACE AVE BATTLE CREEK, MI 49015-2619 (Property Address)

3720-00-014-0



Item 2 of 2

1 Image / 1 Sketch

Property Owner: LIGHTFOOT,GREGORY T**Summary Information**

> Residential Building Summary

- Year Built: 1930
- Full Baths: 1
- Sq. Feet: 864
- Bedrooms: 3
- Half Baths: 0
- Acres: 0.159

> 18 Building Department records found across 1 property

- > Assessed Value: \$15,504 | Taxable Value: \$15,504
- > 1 Special Assessment found
- > Property Tax Information found

Owner and Taxpayer Information

Owner	LIGHTFOOT,GREGORY T	Taxpayer	LIGHTFOOT,GREGORY T 5 TERRACE AVE BATTLE CREEK, MI 49015-2619
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General Information for Tax Year 2014

Property Class	RESIDENTIAL	Unit	52 CITY OF BATTLE CREEK
School District	BATTLE CREEK SCHOOLS	Assessed Value	\$15,504
Map #	612SW	Taxable Value	\$15,504
# UNITS	Not Available	State Equalized Value	\$15,504
NEZ DISTRICT	Not Available	Date of Last Name Change	12/22/2008
USER ALPHA 3	Not Available	Notes	Not Available
Historical District	Not Available	Census Block Group	Not Available
USER ALPHA 2	Not Available		

Principal Residence Exemption Information**Homestead Date** 05/23/2007

Principal Residence Exemption	June 1st	Final
2014	100.0000 %	100.0000 %

Previous Year Information

Year	MBOR Assessed	Final SEV	Final Taxable
2013	\$16,403	\$16,403	\$16,403
2012	\$16,403	\$16,403	\$16,403

Land Information

Zoning Code	R2	Total Acres	0.159
Land Value	\$1,250	Land Improvements	\$0
Renaissance Zone	No	Renaissance Zone Expiration Date	Not Available
ECF Neighborhood	20900 BC SW	Mortgage Code	Not Available
Lot Dimensions/Comments	Not Available	Neighborhood Enterprise Zone	Not Available

Lot(s)	Frontage	Depth
Lot 1	30.69 ft	94.69 ft
Total Frontage: 30.69 ft		Average Depth: 94.69 ft

Legal Description

HALL BROS ADD NELY 78 FT OF LOT 12

Land Division Act Information

Date of Last Split/Combine	Not Available	Number of Splits Left	0
Date Form Filed	Not Available	Unallocated Div.s of Parent	0
Date Created	Not Available	Unallocated Div.s Transferred	0
Acreage of Parent	0.00	Rights Were Transferred	Not Available
Split Number	0	Courtesy Split	Not Available

Parent Parcel

Not Available

Sale History

Sale Date	Sale Price	Instrument	Grantor	Grantee	Liber/Page
11/12/2008	\$18,000.00	05	STROMBAUGH, BEVERLY	LIGHTFOOT, GREGORY T	3418/0179
05/23/2007	\$18,000.00	01	STOMBAUGH (FKA HARDY), BEVERLY A	LIGHTFOOT, GREGORY T	0000/0000
06/23/2000	\$32,500.00	01	HARDY, BEVERLY A	LAPEKAS, STANLEY R	2232/0332
12/05/1999	\$21,900.00	12	CONTIMORTGAGE INC	HARDY	2185/0105
03/26/1999	\$26,749.00	12	HOFFMAN	CONTIMORTGAGE INC	2116/0018

Building Information - 864 sq ft 1.25 TO 1.75 (Residential)

General

Floor Area	864 sq ft	Estimated TCV	Not Available
Garage Area	216 sq ft	Basement Area	576 sq ft
Foundation Size	576 sq ft		
Year Built	1930	Year Remodeled	Not Available
Occupancy	Single Family	Class	CD
Effective Age	30 yrs	Tri-Level	No
Percent Complete	100%	Heat	Forced Air w/ Ducts
AC w/Separate Ducts	No	Wood Stove Add-on	No
Basement Rooms	0	Water	Not Available
1st Floor Rooms	7	Sewer	Not Available
2nd Floor Rooms	0	Style	1.25 TO 1.75
Bedrooms	3		

Area Detail - Basic Building Areas

Height	Foundation	Exterior	Area	Heated
1.5 Story	Basement	Siding	576 sq ft	1.5 Story

Basement Finish

Recreation	0 sq ft	Recreation % Good	0%
Living Area	0 sq ft	Living Area % Good	0%
Walk Out Doors	0	No Concrete Floor Area	0 sq ft

Plumbing Information

3 Fixture Bath 1

Garage Information

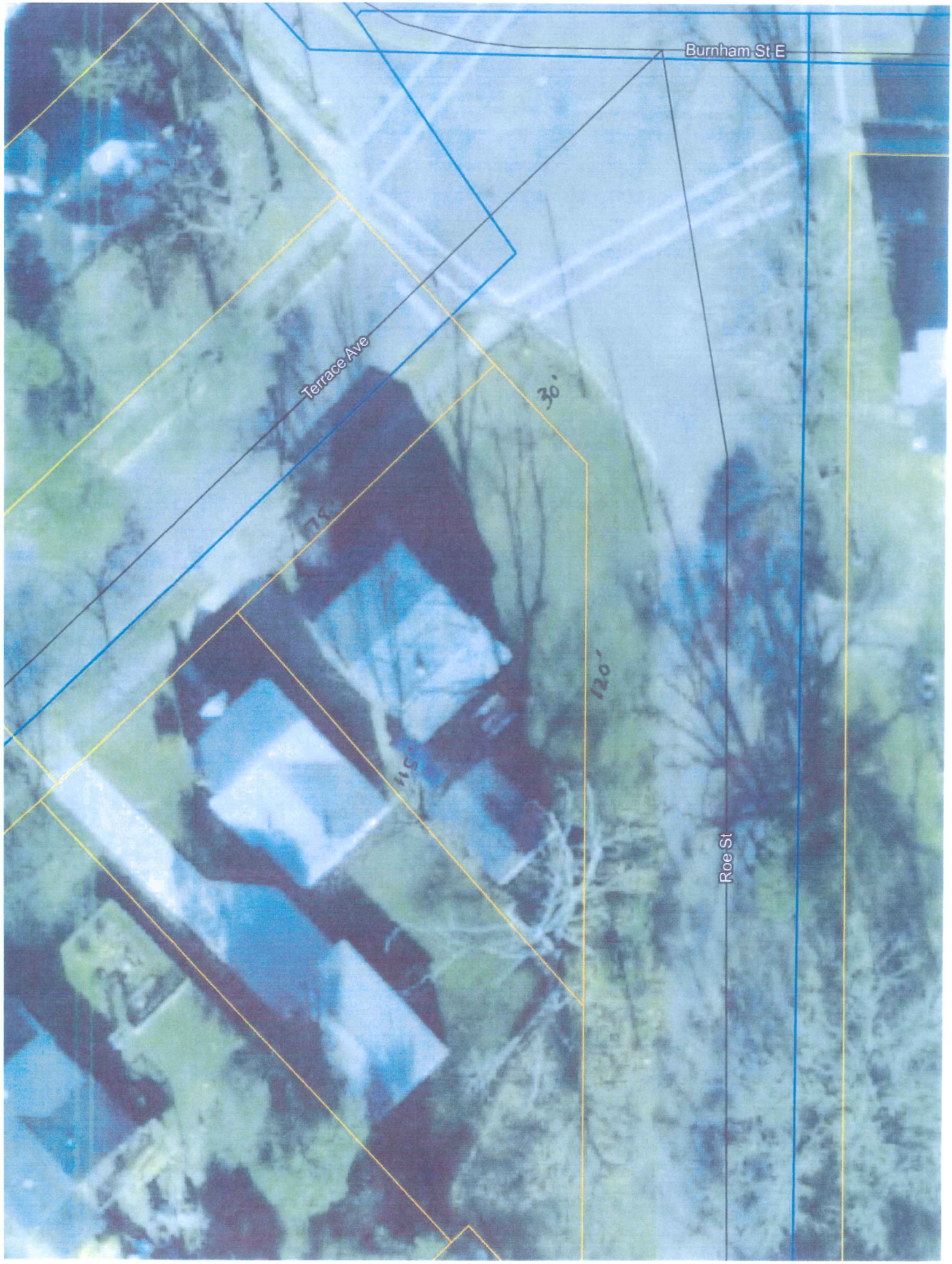
Area	216 sq ft	Exterior	Siding
Foundation	18 Inch	Common Wall	Detached
Year Built	1930	Finished	No
Auto Doors	0	Mech Doors	0

Porch Information

WCP (1 Story)	192 sq ft	Foundation	Standard
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Burnham St E

Terrace Ave

30'

120'

Roe St

115'